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Dr. Aldo R. Jackson, Director
Erie County Technical School
8500 Oliver Road
Erie, PA 16509-4699

RE: Statement of Financial Interests

Dear Dr. Jackson:

Recently, it has come to our attention that there have been many questions concerning the Statement of Financial Interests which must be filed by all public officials and public employees. Specifically, the questions involve how much information must be reported in Block 10, which relates to the reporting of all sources of direct and indirect income. This correspondence has been designed to answer many of the frequently asked questions and to ensure that you are in compliance with the reporting requirements as promulgated by the Pennsylvania State Ethics Commission. Please circulate this correspondence to all of the public employees and officials required to file the Statement of Financial Interests at the Erie County Technical School.

The instructions associated with Block 10 note that the name and address of each source of $1,300 or more of gross income must be reported, but not the actual dollar amount. Pennsylvania law, 65 Pa.C.S.A. §1105(b), requires reporting "the name and address of any direct or indirect source of income totaling in the aggregate $1,300 or more. However, this provision shall not be construed to require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges." 65 Pa. C.S.A. §1105(b)(5). An extensive definition of income is provided by the law. Income includes:

> Any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional

> corporation, partnership or other entity resulting from termination or withdrawal therefrom upon assumption of public office or employment or any other form of recompense or any combination thereof. The term refers to gross income and includes prize winnings and tax-exempt income. The term does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children. 65 Pa. C.S.A. §1102.

Please note that what must be disclosed is the source of the income. In the event that you hold an investment which is sold, and you are aware of the identity of the purchaser of that investment, then you are to report the name of the purchaser. However, when securities are sold, the identities of the purchasers are most often not known as the purchasing is done on the open market. In such a situation, only the name of the security itself must be reported. PA-SEC Opinion, 03-008.

Also, it is important to note that while some information listed on the Statement of Financial Interests may be duplicative, the individual who is filling out the form is required to list the information every time it might be applicable. 51 Pa. Code. §17.4.

The following is a brief explanation of how to handle various common sources of income:

- **Employer Income**

Income from obvious sources, such as through employers, must be reported. The information which must be reported includes the employer's name and address, but not the dollar amount of the income which has been earned. 51 Pa. Code. §17.4.

- **Securities Income**

Most of the questions regarding Block 10 involve income gained from securities. The general rule is, if you earned gross income over $1,300 from a security, whether through capital gains and/or through dividends, and you have the ability to buy and sell the specific security which created the income, then you must report the name and address of the specific security. If, however, you own a fund which creates $1,300 or more in gross income, and you do not have the ability to choose the particular assets held in the fund, then all you must report is the fund's name and address. 51 Pa. Code. §17.4.

For example, if you own enough General Electric stock to receive $1,300 or more of dividend income per year, then the name and address of General Electric must be reported in Block 10. However, if income of $1,300 or more is received from mutual funds and other financial plans, and you have no authority to buy or sell the particular assets in the fund or plan, then just the name and address of the fund or plan must be reported as the single source of income.

Additionally, if you, or you and a spouse, hold an investment portfolio with a broker, and the portfolio is other than that of a mutual fund, the income sources shall be listed individually if you, or you and your spouse, may buy and sell the individual assets contained in the portfolio. 51 Pa. Code. §17.4.

- **Separate Spouse Accounts and Joint Accounts**

If your spouse holds investments solely in his or her name, and the investments earn $1,300 or more, then those investments do not have to be reported on the Statement of Financial Interests. PA-SEC Advice, 06-553. However, joint accounts held by you and your spouse that produce $1,300 or more in gross income must be reported. PA-SEC Opinion, 03-008.

- **Power of Attorney**

If you hold a power of attorney for another, you are not required to disclose the finances of the subservient individual. PA-SEC Opinion, 03-008.

- **Trust Fund**

In you receive income from a trust fund, and the trust fund is unrelated to a family business, then only the name of the trustee and not the individual investments within the portfolio would need to be reported. PA-SEC Advice, 83-539. However, generally, where the identity of an investment is known and creates $1,300 or more a year in gross income, reporting of the individual investment is required. Id.

The general understanding is that if the investments in a portfolio or trust fund are made with the advice and consent of yourself or your family, and the individual sources of income earn you $1,300 or more a year, then the income which is derived from the portfolio or the investment should be reported through the listing of the individual sources of income or investments.

- **What is NOT Income**

The definition of income in 65 Pa.C.S.A. §1102 specifically excludes gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official, or miscellaneous, incidental income of minor dependent children from the definition. Thus, if you hold an IRA or an annuity which you have funded solely through personal contribution, then you do not have to report the investment regardless of the income you have earned from it. Also, gifts do not have to be reported.

The extent of what must be reported may come as a surprise to many people. If, in light of this information, you believe that you should amend a filing, all you are required to do is file a fully completed and additional Statement of Financial Interests. An important factor to consider when deciding whether to amend a past filing is that the Statement of Financial Interests is only required to be maintained at a filing location for five years.

Lastly, only one Statement of Financial Interests needs to be filled out each year. If you hold multiple positions which require reporting, you <u>may</u> list all of the positions on one form, utilizing a separate sheet of paper if necessary. A copy of the form must be filed at all of the required filing locations, but each position does not require filling out a separate form.

I hope that you find this information helpful. If you have any questions, or would like to discuss this matter further, please do not hesitate to contact me. I remain,

Very truly yours,

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